

International Crimes Tribunal-1
Old High Court Building, Dhaka, Bangladesh.

ICT-BD [ICT-1] Case No.06 of 2017

Present:

Justice Md. Shahinur Islam, Chairman
Justice Amir Hossain, Member
Judge Md. Abu Ahmed Jamadar, Member

Order No.07

04 March, 2018

Chief Prosecutor

Vs.

(1) Md. Khalilur Rahman Mir alias Khalilur Rahman (2) Md. Shamsuzzaman (Kalam) (3) Md. Abdullah (4) Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member (5) Md. Rois Uddin Azadi alias Akkel Ali (6) Md. Abdul Latif , (7) A.F.M Faizulla alias Abul Fallah alias Faizulla [absconding] (8) Md. Abdur Razzak Mondol [absconding], (9) Sirajul Islam @ Tota Mondol [absconding] , (10) Md. Alim Uddin Khan [absconding] and (11) Nurul Amin Shahjahan alias Shahjahan [absconding]

Mr. Md. Shahidur Rahman, Prosecutor: For the prosecution

Mr. Abdus Shukur Khan, Advocate: For accused (1) Md. Abdul Latif

Mr. Abdus Shukur Khan, State defence Counsel: For accused (2) Md. Khalilur Rahman Mir alias Khalilur Rahman , (3) A.F.M Faizulla alias Abul Fallah alias Faizulla (4) Md. Abdur Razzak Mondol (5) Sirajul Islam @ Tota Mondol (6) Md. Alim Uddin Khan and (7) Nurul Amin Shahjahan alias Shahjahan

Mr. Abdus Sattar Palwan, Advocate: For accused (8) Md. Shamsuzzaman (Kalam) , (9) Md. Abdullah and (10) Md. Rois Uddin Azadi alias Akkel Ali

Mr. Masud Rana, Advocate: For accused (11) Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member

[Decision on framing charges]

Accused (1) Khalilur Rahman Mir (2) Md. Shamsuzzaman (Kalam) (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rois Uddin Azadi @ Akkel Ali and (6) Md. Abdul Latif have been brought before the Tribunal from prison.

On wrapping up the hearing on charge framing matter and discharge application pressed on part of accused Md. Abdul Malek Akanda on 27 November , 2017, the Tribunal[ICT-1] fixed today for rendering its decision and as such the record is taken up for order on indictment matter. Before we pass the order, we consider it appropriate and relevant to make a brief portrayal of the context of the case and succinct arguments advanced by both prosecution and defence before this Tribunal.

I. Formation of the Tribunal

1. This International Crimes Tribunal-1 (hereinafter referred to as the “Tribunal”) has been constituted under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by the sovereign Parliament of Bangladesh intending to provide provisions for the detention, prosecution and punishment of individual or group of individuals or member or members of auxiliary force as defined in the Act responsible for the offences of genocide, crimes against humanity, war crimes as enumerated in sub-section (2) of section 3 of the Act committed in the territory of Bangladesh especially in 1971 during the war of liberation. The preamble of the Act reflects this core objective. However, no Tribunal was set up and as such no one could be brought to justice under the Act until the government established ‘Tribunal’ (Tribunal-1) on 25th of March 2010.

II. Brief Historical Context

2. In all the earlier cases, already disposed of, the Tribunal described the settled historical context that shoved the Bengali nation to start fighting for self determination and independence of the motherland—Bangladesh. Bangabandhu Sheikh Mujibur Rahman the Father of the

Nation in his historic speech of 7th March, 1971, called on the people of Bangladesh to strive for independence.

3. Long 46 years after the nation achieved its independence recognizing the historic March 7 speech of Bangabandhu Sheikh Mujibur Rahman, the Father of the Nation as a world documentary heritage by the UNESCO is the stamp of immense pride for the nation. This recognition shall prevent distortion of the history and the 7 March blazing speech of Bangabandhu calling on the freedom-loving Bangalees indispensably activated and inspired the whole nation, excepting a few pro-Pakistan people to get prepared for the war of liberation.

4. On 26th March, following the onslaught of “Operation Search Light” by the Pakistani Military on 25th March, Bangabandhu declared independence of Bangladesh immediately before he was arrested by the Pakistani authorities.

5. It is now the settled history that in the War of Liberation that ensued in 1971 under the leadership of Bangabandhu the Father of the Nation, all people of the then East Pakistan wholeheartedly supported and participated in the call to free Bangladesh but a small number of Bangalee, Biharis, other pro- Pakistanis, as well as members of a number of different religion-based political parties joined and/or collaborated with the Pakistani occupation army to actively oppose the creation of independent Bangladesh and most of them committed and facilitated the commission of diabolical atrocities in the territory of Bangladesh, directing non-combatant pro-liberation civilians. As a result, 3 million (thirty lacs) people were killed, more than 2,00,000 (two lacs) women were raped, about 10 million (one crore) people were forced to deport to India as refugees and million others were internally displaced. It also experienced unprecedented destruction of properties all over Bangladesh, in violation of laws of war and fundamental rights of protected civilians.

6. The Pakistan government and the occupation military created number of auxiliary forces such as the Razakars, the Al-Badar, the Al-Shams, the Peace Committee etc. essentially to collaborate with the military in identifying and eliminating all those who were perceived to be sympathized with the liberation of Bangladesh, individuals belonging to minority religious groups especially the Hindus, individuals belonging to Awami League and other pro- independence political parties, Bangalee intellectuals and unarmed civilian population of Bangladesh.

7. The arraignments as have been pressed by the prosecution in the case in hand, by submitting formal charge involve the atrocious attacks allegedly carried out directing civilian population by the accused persons in collaboration with their accomplices and Pakistani occupation army in the context as briefly narrated herein above.

III. Brief account of the Accused Persons

8. Before we render our decision on charge framing matter let us have a look what has been stated in the formal charge about the identity of the accused persons. The following are the brief account of the 11(eleven) accused persons that will essentially provide the ideology, status and mindset they had in 1971 during the war of liberation:

(i)Md. Khalilur Rahman Mir alias Khalilur Rahman

Accused Md. Khalilur Rahman Mir *alias* Khalilur Rahman [62], son of late- Nazmul Haque Mir *alias* Nazim Uddin *alias* Nesa Mondol and late-Aklima Khatun of Village-Sadhua, Police Station-Pagla (former Gafargaon), District- Mymensingh. He was born on 10.08.1955 (according to his National Identity Card). Accused Md. Khalilur Rahman Mir *alias* Khalilur Rahman studied up to class V. In the Provincial council election in 1970, he campaigned in favour of Moulana Anisur Rahman Morshidabadi who was nominated candidate of Jamat-E-Islami. In 1971 during the liberation war, accused Md. Khalilur Rahman Mir *alias* Khalilur Rahman joined in the Razakar Bahini and was a member as being serial No.317 in the list of Niguari Union, Razakar Bahini. He actively participated and collaborated with

the Pakistani occupation army in committing heinous crimes directing civilian population, in 1971, prosecution alleges.

(ii)Md.Samsuzzaman (Kalam) alias Abul Kalam

Accused Md. Samsuzzaman (Kalam) alias Abul Kalam (65), son of late-Alhaj Abul Kashem and Most. Ashrafun Nesa of Village-Sadhua, Police Station- Pagla (former Gafargaon), District-Mymensingh; at present- village- Ramasshorpur, Police Station- Atgharia, District- Pabna. He was born on 05.03.1952(according to his National Identity Card).He passed S.S.C in 1968 from Hossainpur High School. In the Provincial council election in 1970, he campaigned in favour of Moulana Anisur Rahman Morshidabadi who was nominated candidate of Jamat-E-Islami. In 1971 during the liberation war, accused Md. Samsuzzaman (Kalam) alias Abul Kalam joined in the Razakar Bahini and was a member as being serial No.253 in the list of Niguari Union, Razakar Bahini. In 1971 he was engaged in collaborating with the Pakistani occupation army in accomplishing barbaric crimes directing civilians, prosecution alleges.

(iii)Md. Abdullah

Accused Md. Abdullah(62),son of late Habibur Rahman alias Hokka Moulavi and late-Rafiqunnesa of village-Sadhua under Police Station-Pagla (former Gafargaon), District-Mymensingh; at present-49 Modhubag, Police Station-Dakhin Khan, DMP, Dhaka. According to his National Identity Card, his date of birth is 01.03.1954. Accused Md. Abdullah studied Hebjul Quran up to 4 years from Kishoreganj Jamia Emdadia Madrasha. In the Provincial council election in 1970 the accused Md. Abdullah campaigned in favour of Moulana Anisur Rahman Morshidabadi who was nominated candidate of Jamate-E-Islami. In 1971, during the liberation war, he as a follower of local Peace Committee leaders joined in the Razakar Bahini of local Niguari Union and collaborated with Pakistani occupation army in committing heinous crimes, prosecution alleges.

(iv)Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member

Accused Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member (68), son of late Abed Ali Akanda alias Mendir Bap and late Maleka Banu of Village-Khurda, Police Station-Bhaluka, District-Mymensingh. According to his National Identity Card, his date of birth is 12.07.1949. He studied up to class IX from Labuuddin Govt. High School in village Jamirapara, Police Station-Bhaluka, District-Mymensingh. In the Provincial council election in 1970 he was engaged in campaigning in favour of Moulana Anisur Rahman Morshidabadi, a nominated candidate of Jamate-E-Islami. He as a follower of local peace committee leaders and Razakar commander joined in the local Niguari Union Razakar Bahini and collaborated with the Pakistani occupation army in carrying out atrocious activities directing civilans population. Prosecution avers.

(v)Md. Rois Uddin Azadi alias Akkel Ali

Accused Md. Rois Uddin Azadi alias Akkel Ali (74), son of late Samed Ali Mondol alias Samir Uddin Mondol alias Somu Mondol and late Jamila Bewa alias Modur Ma, of village-Olali, Police Station-Pagla(former Gafargaon), District-Mymensingh, at present village-Kakonhat Paurasova (Notunpara), Police Station-Godagari, District-Rajshahi. According to his National Identity Card, his date of birth is 15.04. 1943. He studied up to Dawra from Jamia Islami Madrasha, Tantibazar, Dhaka in the year of 1976.In the Provincial council election in 1970 he was affiliated with the campaigning in favour of Moulana Anisur Rahman Morshidabadi, a nominated candidate of Jamat-E-Islami. In 1971, during the liberation war, he joined in the Razakar Bahini of local Niguari Union and actively participated in accomplishing atrocious activities around the localities by collaborating with the Pakistani occupation army, prosecution alleges.

(vi)A.F.M Faizulla alias Abul Fallah alias Faizulla

Accused A.F.M Faizulla alias Abul Fallah alias Faizulla (66), son of late Abdul Majid Khan and late Jahanara Begum alias Samala Khatun of village – Sadhua, Police Station- Pagla (former Gafargaon), District- Mymensingh. According to his National Identity Card, his date of birth is 11.01.1951. He passed the SSC examination from

Basiya High School in 1968. In 1971, his father Abdul Majid Khan was the local leader of East Pakistan Nezam-e-Islami and being inspired by his father he was involved with the local Politics. In the General Election of 1970, he played a vital role in election campaign in favour of the candidate nominated by Jamat-E-Islami. In 1971, he joined in locally formed Razakar Bahini and his name finds place in serial No. 254 in the list of Niguary Union Razakar Bahini. In 1971, during the liberation war he participated and collaborated with the Pakistani occupation army in committing crimes directing civilans of the localities, prosecution alleges.

(vii)Md. Abdur Razzaq Mondol

Accused Md. Abdur Razzaq Mondol (64), son of late Abdul Helim Mondol alias Helim Member and late Amena Khatun, of village – Olali, Police Station- Pagla (former Gafargaon), at Present: village- Sholahasia, House No-M/249, Police Station- Gafargaon, District- Mymensingh. According to his National Identity Card, his date of birth is 02.11.1951. From 1975 to March 27, 2000 he served in Bangladesh Army as Havildar. In 1971, his father late Abdul Helim Mondol alias Helim Member was a member of Muslim League. In 1971, his father Abdul Helim Mondol alias Helim Member as a local leader of Muslim League played a vital role with Riaz Uddin Moulana to form Peace Committee at Niguary Union. Accused Abdur Razzaq also sided with the Pakistan and Joined in locally formed Razakar Bahini and his name finds place in serial No.276 in the list of Niguary Union Razakar Bahini. He as a member of Razakar Bahini actively participated and collaborated with the Pakistani occupation army in committing heinous crimes, in 1971, prosecution alleges.

(viii)Sirajul Islam alias Tota Mondol

Accused Sirajul Islam alias Tota Mondol [66], son of Noorbox alias Panu Mondol and late-Hasen Banu of Village-Olali, Police Station- Pagla (former Gafargaon), District-Mymensingh. He studied up to Class VIII. In 1971, during the liberation war, he joined in the locally formed Razakar Bahini and his name finds place in serial No.278 in

the list of Niguary Union Razakar Bahini. He actively participated and collaborated with the Pakistani occupation army in accomplishing atrocious activities directing civilian population, prosecution avers.

(ix)Md. Alim-Uddin Khan

Accused Md. Alim-Uddin Khan (77), son of Late-Abdul Gofur Khan and Late-Amena Khatun of village–Sadhua, Police Station-Pagla (former Gafargaon), District-Mymensingh, at Present: Village-Beldia, Police Station-Sreepur, District-Gazipur. According to his National Identity Card, his date of birth is 15.01.1939. He studied up to class VIII in Kandhipara Askor Ali High School under Pagla Police Station, District- Mymensingh. He was a supporter of the Muslim League. In 1971, he joined the Razakar Bahini and his name finds place in serial no. 316 in the list of Niguary Union Razakar Bahini. In exercise of his membership in Razakar Bahini he collaborated with the Pakistani occupation army in committing heinous crimes directing civilian population, prosecution alleges.

(x)Md. Abdul Latif

Accused Md. Abdul Latif (58), son of Late-Hossen Ali Mir alias Hossen Munshi and Late-Hamida Khatun of village-Tolali, Police Station- Pagla (former Gafargaon), District- Mymensingh. According to his National Identity Card, his date of birth is 26.06.1959. He passed Dakhil from Garuran Khalilia Senior Madrasha in 1972 and he passed Fazil from the same Madrasha in 1975. He also passed Kamil from Muktagacha Abbachia Madrasha in 1986. In 1971, he joined in the locally formed Razakar Bahini being inspired by the locally formed peace committee leader and his name finds place in serial No.283 in the list of Niguary Union Razakar Bahini. He was engaged and participated, along with the Pakistani occupation army in carrying out criminal activities directing civilans, prosecution alleges. Presently the accused is performing as an Assistant President of Gafargaon Upazilla Ulama League and President of Ulama League, Niguary Union.

(xi) Nurul Amin Shahjahan alias Shahjahan

Accused Nurul Amin Shahjahan alias Shahjahan (69), son of Late-Hazrat Ali and Anowara Begum of village-Sholahasia, Police Station-Gafargaon, District- Mymensingh was born on 01.01.1948, according to his National Identity Card. He passed S.S.C Examination in 1963 from Gafargaon Islamia High School. After liberation war in 1971, he involved with the politics of Muslim League. He joined the locally formed Razakar Bahini and actively participated and collaborated with the Pakistani occupation army in committing horrific crimes, prosecution alleges. He was a Razakar commander of Razakar Bahini and his name finds place in serial no. 01 in the list of Razakar Bahini, Gafargaon Pourashava, Police Station-Pagla and District-Mymensingh. Presently he is a Member of local BNP.

IV. Procedural History

9. The Investigation Agency of the Tribunal constituted under the Act of 1973 started investigation pursuant to complaint register serial no. 40 dated 16.10.2014, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated by (1) Khalilur Rahman Mir (2) Md. Shamsuzzaman (Kalam) (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rois Uddin Azadi (6) Md. Abdul Latif , (7) A.F.M Faizulla [absconding] (8) Md. Abdur Razzaq Mondol [absconding], (9) Sirajul Islam @ Tota Mondol [absconding] , (10) Md. Alim Uddin Khan [absconding] and (11) Nurul Amin Shahjahan [absconding] .

10. During investigation i.e at pre-trial stage the Investigation Officer through the Chief Prosecutor brought it to the notice of the Tribunal by filing applications on different dates that accused (1) Khalilur Rahman Mir (2) Md. Shamsuzzaman Kalam (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rais Uddin Azadi had been in jail in connection with other cases under The Penal Code and The Special Powers Act, 1974 and prayed for their production before this Tribunal, in connection with this case. Accordingly on Tribunal's order and in execution of Production Warrant those accused were

brought before the Tribunal when they were sent to prison, as prayed for in connection with this case.

11. In between 13.11.2016 and 17.11.2016 the five[05] accused persons who had been in prison were interrogated by the Investigation Officer as permitted by Tribunal's order dated 25.10.2016.

12. The Investigation Officer [IO] submitted its report together with documents and materials collected and statement of witnesses, on wrapping up of investigation before the Chief Prosecutor on 20.02.2017 against in all 11 suspect accused persons of whom 06[six] could not be arrested.

13. The Chief Prosecutor, on the basis of the report and documents submitted therewith by the Investigation Agency, after completion of investigation, submitted the 'Formal Charge' on 05.04.2017 under section 9(1) of the Act of 1973 before this Tribunal alleging that the eleven accused persons had committed the offences of crimes against humanity and including abetting and also for complicity in committing such crimes narrated in the formal charge during the period of War of Liberation in 1971 around the localities under the Police Station-Gafargaon of District-Mymensingh.

14. On 26.10.2017 the Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) (a)(b)(g)(h) of the Act of 1973, by application its judicial mind to the Formal Charge and materials and documents submitted therewith.

15. Out of eleven[11] accused six[06] accused Md. Abdul Latif, A.F.M Faizulla, Md. Abdur Razzaq Mondol, Sirajul Islam @ Tota Mondol, Md. Alim Uddin Khan and Nurul Amin Shahjahan could not be arrested, at pre-trial stage.

16. After having the report in execution of warrant of arrest issued against those six accused the Tribunal, for the purpose of holding

proceedings in absentia against them, by its order dated 26.10.2017 directed publication of notice in two national daily news papers. But these accused did not turn up despite such notification and as such treating them absconded the Tribunal by its order dated 15.11.2017 fixed 24.12.2017 for hearing the charge framing matter by appointing state defence counsel, at the cost of Government, to defend the absconding accused persons.

17. At this stage, on 22.12.2017 accused Md. Abdul Latif surrendered before the Tribunal and by engaging counsel prayed for bail and on hearing, the same was rejected and the accused Md. Abdul Latif was sent to prison.

18. Then on 24.12.2017 and 17.01.2018 hearing on charge framing matter took place when both sides placed their respective submission. The learned counsel defending the accused Md. Abdul Malek Akanda submitted an application seeking discharge.

V. Submission by the Prosecutor

19. **Mr. Shahidur Rahman**, the learned prosecutor in advancing his submission drew attention to the formal charge and materials submitted therewith. It has been submitted that the accused persons belonged to locally formed Razakar Bahini; that they were affiliated with the politics of pro-Pakistan political parties and sided with the policy and plan of the Pakistani occupation army, in 1971. The accused persons were engaged in carrying out atrocious activities around the localities under Gafargaon Police Station of District Mymensingh; that the materials collected by holding investigation shall demonstrate prima facie that the accused persons were culpably and actively engaged in launching attacks directing pro-liberation civilian population as narrated in the formal charge that resulted in the offences of arson, torture, abduction, confinement and murder as crimes against humanity as enumerated in the Act of 1973.

20. The materials, statement of cited witnesses and the documents collected *prima facie* provide reasonable grounds of proceedings by framing indictments against the accused persons, as have been pressed--- with this the learned Prosecutor concluded his submission.

VI. Submission on behalf of the defence

21. Mr. Masud Rana, the learned counsel defending the accused Md. Abdul Malek Akanda by pressing an application seeking discharge submitted that this accused has been proposed to be indicted only in respect of the event no.02 as narrated in the formal Charge. But there has been no *prima facie* material to connect this accused with the event alleged. Thus he deserves discharge.

22. Mr. Abdus Sattar Palwan the learned counsel defending the three accused Md. Shamsuzzaman Kalam , Md. Abdullah and Md. Rois Uddin Azadi submitted that these accused did not belong to Razakar Bahini ; that document relied upon by the prosecution in this regard is not reliable; that no other person as has been shown as Razakar in the alleged list has not been prosecuted ; that the arraignment constituting the offences as has been narrated in the formal charge were isolated in nature and there has been no ground of proceedings against these accused persons. Thus they deserve to be discharged.

23. Mr. Abdus Sukur Khan the learned engaged counsel defending the accused (1) Md. Abdul Latif and also as the state defence counsel defending the accused(2) Khalilur Rahman Mir, (3) A,F. M Faizulla (4) Md. Abdur Razzaq Mondol (5) Sirajul Islam @ Tota Mondol (6) Md. Alim Uddin Khan and (7) Nurul Amin Shahjahan submitted that there has been no *prima facie* material to indict these accused persons for the arraignments as have been brought in the Formal Charge. Thus these accused deserve to be discharged. Accused Md. Abdul Latif surrendered before this Tribunal, the learned counsel added.

VII. Deliberations and Decision

24. We have gone through the formal charge, statement of witnesses and the documents submitted therewith. . It is true, at this stage neither the guilt nor the innocence can be adjudicated decisively. However, the accused persons shall be treated innocent, till they are found guilty. Their culpability, if any, can only be well determined at trial, not at this stage.

25. But the formal charge and documents submitted therewith cumulatively demonstrate, at this stage that there has been *prima facie* disclosure of participation, substantial contribution and abetment of the accused persons to the perpetration of the alleged offences as enumerated in section 3(2) of the Act of 1973

26. However, on *prima facie* examination of the record, we are convinced that the proposed arraignments deserve to be considered and resolved which may only be done at trial, on presentation of evidence. Now, at this stage, we are to merely see the *prima facie* complicity and participation of the accused persons with the commission of alleged offence and of course, treating the accused persons innocent, till they are found guilty.

27. Rule 36 of the ROP provides provision of trying the persons accused of offences at one trial as they allegedly committed the same offences being the associates of the group of attackers, allegedly in exercise of their membership in locally formed Razakar Bahini. Thus, trying them jointly is lawfully approved.

28. In view of the discussion as made above and considering the submissions advanced by both sides, we are of the view that the application seeking discharge of the accused Md. Abdul Malek Akanda, having no substantial merit, is hereby rejected.

29. We are of the view that there are sufficient and substantial materials before this Tribunal to presume *prima facie* that accused persons were involved with the commission of

offences during the War of Liberation in 1971 as specified under section 3(2) of the Act for which they now need to stand trial. We have found *prima facie* the nexus of the accused persons with the commission of the alleged offences, mostly from the particulars of facts narrated in the Formal Charge.

30. In view of above, now, we proceed to read out the charges framed. We are of the view that there are sufficient and substantial materials before this Tribunal to frame charges against accused (1) Khalilur Rahman Mir (2) Md. Shamsuzzaman (Kalam) (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rois Uddin Azadi (6) Md. Abdul Latif , (7)A.F.M Faizulla [absconding] (8) Md. Abdur Razzaq Mondol [absconding],(9) Sirajul Islam @ Tota Mondol[absconding] , (10) Md. Alim Uddin Khan[absconding] and (11) Nurul Amin Shahjahan[absconding] for the offences allegedly committed during the War of Liberation in 1971 as specified under section 3(2) of the Act of 1973 for which they are alleged to be criminally liable under sections 4(1) of the Act of 1973. The charges are thus framed against them in the following manner.

Charges

We,

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Judge Abu Ahmed Jamadar, Member

Of the International Crimes Tribunal -1

Do hereby charge you the accused (1) Khalilur Rahman Mir (2) Md. Shamsuzzaman Kalam (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rais Uddin Azadi (6) Md. Abdul Latif , (7)A.F.M Faizulla [absconding] (8) Md. Abdur Razzak Mondol [absconding],(9) Sirajul Islam @ Tota Mondol[absconding] , (10) Md. Alim Uddin Khan[absconding] and (11) Nurul Amin Shahjahan[absconding] as follows:

Charge No.01: 07 accused indicted

[Event no. 01 as narrated at pages 42-48 of the Formal Charge]

[Offence of abduction, confinement, torture, looting, arson and murder of Shahabuddin Khan alias Khoka Kha of village-Sadhua, Police Station- Pagla, District- Mymensingh]

That on 16 August 1971 at about 12.00 P.M you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3) Md. Alim Uddin Khan, (4) Md. Abdullah, (5) Md. Abdur Razzaq Mondol, (6) Md. Rois Uddin Azadi alias Akkel Ali and (7) Nurul Amin Shahjahan alias Shahjahan being accompanied by 10/12 other Razakars by launching attack at village-Sadhua under Police Station-Pagla, District- Mymensingh encircled the house of Shahabuddin Khan alias Khoka Kha , an organizer of the war of liberation, Hashem Khan and Anisur Rahman Khan and you the accused Md. Shamsuzzaman (Kalam) alias Abul Kalam and your accomplices forcibly captured Shahabuddin Khan alias Khoka Kha, started torturing and looted households. Detained Abul Hashem received severe blood injury due to torture inflicted to him. Anisur Rahman was also brutally tortured when he attempted to ran away from the hideout, on being captured.

Thereafter, you the accused persons and your accomplices had left the site taking the detained victim Shahabuddin Khan alias Khoka Kha with you, defying his mother's appeal at Trimohoni Razakar camp where he was subjected to torture in seven-day captivity. On 23-08-1971, in the night, you the accused persons killed the detained victim Shahabuddin Khan alias Khoka Kha and threw away his dead body in the river which could not be found even.

Therefore, you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3) Md. Alim Uddin Khan,(4) Md. Abdullah, (5) Md. Abdur Razzaq Mondol, (6) Md. Rois Uddin Azadi alias Akkel Ali and (7) Nurul Amin Shahjahan alias Shahjahan are hereby charged for participating, facilitating, abetting and substantially contributing to the commission of the offence of '**abduction**', '**confinement**', '**torture**', '**looting**', '**arson**' and '**murder**' as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes

(Tribunals) Act,1973 which are punishable under section 20(2) of the Act.

Charge No.02: 05 accused indicted

[Event no. 02 as narrated at pages 48-55 of the Formal Charge]

[Offence of abduction, confinement, torture, looting and killing of Noor Hossain Bepari alias Nuru Bepari of village- Rouha, Police Station- Pagla, District- Mymensingh]

That on 22 September 1971 at about 12.30A.M you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member, (3) Md. Rois Uddin Azadi alias Akkel Ali, (4) Md. Abdur Razzaq Mondol and (5) Md. Alim Uddin Khan being accompanied by 7/8 other Razakars and some Pakistani occupation army men by launching attack at the house of Noor Hossain Bepari alias Nuru Bepari , an organizer of the liberation war and a freedom- fighter of village-Rouha under Police Station- Pagla, District- Mymensingh forcibly captured Hafiz Uddin, Shahidul Islam (Dulal) and Abdul Karim Bepari from the shop of Hafiz Uddin, in front of Noor Hossain's house.

In conjunction with the attack the gang also detained Tamiz Uddin Bepari (now dead), Gias Uddin Bepari (now dead), Siraj Uddin alias Siru Bepari, Kashem Ali Bepari (now dead) and Noor Hossain Bepari from the 'Bepari house' and kept them tied up with rope with other detainees and were subjected to torture. The group of attackers, in conjunction with the attack looted the shops and households. Afterwards, the 08 detainees along with looted valuables were taken away to the Baroihati Bazar Razakar camp where they were kept in captivity for 3 days and later on 05 detainees got release in exchange of 5000 Rupees as ransom. Similarly, 02 other detainees Tamiz Uddin and Abdul Karim got release on 26 September 1971 from captivity in exchange of 7000 Rupees. On 26-09-1971 at night about 9.00 P.M you the accused Razakar Commander (1) AFM Faizulla alias Abul Falla, (2) Razakar Abdul Malek, (3) Akkel Ali, (4) Abdur Razzaq and (5) Alim Uddin Khan along with your armed accomplices taking the

detainee Noor Hossain Bepari on the bank of the river Kalibana (Chorhi Ghat), where he was shot to death and his dead body was thrown in the river, His dead body could not be found.

Therefore, you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Abdul Malek Akanda alias Abul Hossain alias Abul Member, (3) Md. Rois Uddin Azadi alias Akkel Ali, (4) Md. Abdur Razzaq Mondol and (5) Md. Alim Uddin Khan are hereby charged for participating, facilitating, abetting and substantially contributing to the commission of the offence of '**abduction**', '**confinement**', '**torture**', '**looting**' and '**murder**' as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act,1973 which are punishable under section 20(2) of the Act.

Charge No.03: 09 accused indicted

[Event no. 03 as narrated at pages 55-61 of the Formal Charge]

[Offence of abduction, confinement, torture, looting, arson and killing of Jaidhar Khan alias Taru Kha of village- Sadhua, Police Station- Pagla, District- Mymensingh]

That on 24 September 1971, after *Asar* prayer, a group formed of you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3)Md. Abdur Razzaq Mondol, (4)Sirajul Islam alias Tota Mondol,(5) Md. Abdullah, (6) Md. Khalilur Rahman Mir alias Khalilur Rahman, (7)Md. Rois Uddin Azadi alias Akkel Ali, (8) Md. Abdul Latif and (9) Md. Alim Uddin Khan , your 7/8 accomplice Razakars and 4/5 Pakistani occupation army men by launching attack at village- Sadhua, Police Station- Pagla, District- Mymensingh forcibly captured Jaidhar Khan alias Taru Kha, the father of Abdul Majid [now dead], a freedom fighter and caused brutal torture to him tying him up and then took him away to the Trimohoni Bazar Razakar camp.

On the following day, the elder brother of the detainee went to the Razakar camp and saw you the accused Razakars torturing his brother

brutally to get the information of his freedom fighter son and other freedom fighters. At that time the brother of the detained victim was also subjected to torture when he requested for his brother's release. Six days later, on 30 September, 1971 in the night the detained Jaidhar Khan alias Taru Kha was shot to death taking him on the bank of the river Shutia and his dead body could not be traced even.

Therefore, you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3)Md. Abdur Razzaq Mondol, (4)Sirajul Islam alias Tota Mondol,(5) Md. Abdullah, (6) Md. Khalilur Rahman Mir alias Khalilur Rahman, (7)Md. Rois Uddin Azadi alias Akkel Ali, (8) Md. Abdul Latif and (9) Md. Alim Uddin Khan are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offence of '**abduction**', '**confinement**', '**torture**', '**looting**', '**arson**' and '**murder**' as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act,1973 which are punishable under section 20(2) of the Act.

Charge No.04: 08 accused indicted

[Event no. 04 as narrated at pages 61-67 of the Formal Charge]

[Offence of abduction, confinement, torture, looting, arson and killing of Toyob Ali Sarker of village- Sadhua, Police Station- Pagla, District- Mymensingh]

That on 27 September 1971, at about 9.00/10.00 A.M. a group formed of you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3) Md. Abdur Razzaq Mondol, (4) Md. Rois Uddin Azadi alias Akkel Ali, (5) Sirajul Islam alias Tota Mondol,(6) Md. Khalilur Rahman Mir alias Khalilur Rahman, (7) Md. Abdul Latif , (8) Nurul Amin Shahjahan alias Shahjahan , your 10/12 accomplices Razakars by launching attack at the house of pro-liberation civilian Toyob Ali Sarker of village- Sadhua, Police Station- Pagla, District- Mymensingh looted the house and set it on fire , finding his son not available there.

Pursuant to object of the enterprise that launched attack on 27 September 1971 you the accused persons being accompanied by your accomplice Razakars again launched attack at the house of Toyob Ali Sarker, on, 30 September 1971, after Asar prayer and got Toyob Ali Sarker, his son Nurul Huda (now dead), Nurul Haq alias Renu Mia, neighbor Abdur Rashid alias Chhoto Mia, Lal Mia (now dead), Ibrahim (now dead), Mainuddin (now dead) forcibly captured when they were subjected to torture and them all away on the bank of Pantther Bill by boat. At one stage, you the accused Razakar Commander Abul Fallah released the detainee Nurul Haq alias Renu Mia, in exchange of money. Brutally tortured detained victim Abdur Rashid alias Chhoto Mia was left abandoned in dying condition on the bank of Marshes bill. Later on, his relatives rescued him in unconscious condition and arranged his treatment

Victim Toyob Ali was drowned into the water of the Marshes bill that resulted in severe injury and then was kicked out of the boat, in the middle of the Marshes bill. Three days later, his dead body could be found and it was buried in the family graveyard by his relatives.

Therefore, you the accused (1) AFM Faizulla alias Abul Fallah alias Faizulla, (2) Md. Shamsuzzaman (Kalam) alias Abul Kalam, (3) Md. Abdur Razzaq Mondol, (4) Md. Rois Uddin Azadi alias Akkel Ali, (5) Sirajul Islam alias Tota Mondol, (6) Md. Khalilur Rahman Mir alias Khalilur Rahman, (7) Md. Abdul Latif and, (8) Nurul Amin Shahjahan alias Shahjahan are hereby charged for participating, facilitating, abetting and substantially contributing to the commission of the offence of **'abduction'**, **'confinement'**, **'torture'**, **'looting'**, **'arson'** and **'murder'** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

31. Thus, you the accused persons have been indicted as above for committing the offences under section 3(2)(a)(c)(g)(h) of the International Crimes(Tribunals) Act, 1973, punishable under section

20(2) read with section 4(1) of the Act which are within the cognizance and jurisdiction of this Tribunal. And we hereby direct you to be tried by this Tribunal on the said charges.

32. You accused (1) Md. Khalilur Rahman Mir (2) Md. Shamsuzzaman (Kalam) (3) Md. Abdullah (4) Md. Abdul Malek Akanda (5) Md. Rois Uddin Azadi (6) Md. Abdul Latif have heard and understood the aforesaid charges which have been read out and explained **[in Bangla]** in the open court in your presence.

Question: Do you plead guilty or not.

Answer:

33 The charges so framed have been read over and explained to the accused (1) Khalilur Rahman Mir, (2) Md. Shamsuzzaman (Kalam), (3) Md. Abdullah, (4) Md. Abdul Malek Akanda, (5) Md. Rois Uddin Azadi (6) Md. Abdul Latif to which they pleaded not guilty and claimed to be tried according to law.

34. The rest five Accused remained absconded and as such the charges framed against them could not be explained to them.

35. Let 12.04.2018 be fixed for opening statement and examination of prosecution witnesses. Prosecution is directed to submit copy of all the documents it relies upon, for the purpose of furnishing the same with the defence, if meanwhile the same are not supplied to the defence. At the same time the engaged counsels and state defence counsel are directed to submit a list of witnesses along with documents, if any, which the defence intends to rely upon, as required under section 9(5) of the Act on or before the date fixed.

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Judge Md. Abu Ahmed Jamadar, Member

